

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

**DAVID E. MACK,**

*Plaintiff,*

v.

**PALISADES COLLECTION, LLC, et al.**

*Defendants.*

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**Civil Action No. 4: 11-cv-00344**

**DEFENDANT MICHAEL J. SCOTT'S  
ANSWER AND AFFIRMATIVE DEFENSES**

Defendant, Michael J. Scott ("Scott"), pursuant to the Federal Rules of Civil Procedure, submits this Answer and Affirmative Defenses to the First Amended Complaint filed by Plaintiff, David E. Mack (Plaintiff), and states:

**JURISDICTION**

1. Scott admits the allegations in ¶ 1 for jurisdictional purposes only.

**PARTIES**

2. Upon information and belief, Scott admits the allegations in ¶ 2.

3. Scott admits he is an attorney holding Texas State Bar number 24000876, and Scott is principal of Michael J. Scott, P.C. Except as specifically admitted, Scott denies the allegations in ¶ 3, including subparagraphs (a) – (c), for lack of knowledge or information sufficient to form a belief therein.

**VENUE**

4. Scott admits venue is proper. Except as specifically admitted, Scott denies the allegations in ¶ 4 for lack of knowledge or information sufficient to form a belief therein.

5. Upon information and belief, Scott admits the allegations in ¶ 5.

**GENERAL ALLEGATIONS**

6. Scott denies the allegations in ¶ 6 for lack of knowledge or information sufficient to form a belief therein.

7. Scott denies the allegations in ¶ 7 for lack of knowledge or information sufficient to form a belief therein.

8. Scott denies the allegations in ¶ 8 for lack of knowledge or information sufficient to form a belief therein.

9. Scott denies the allegations in ¶ 9 for lack of knowledge or information sufficient to form a belief therein.

10. Scott denies the allegations in ¶ 10 for lack of knowledge or information sufficient to form a belief therein.

11. Scott denies the allegations in ¶ 11 for lack of knowledge or information sufficient to form a belief therein.

**COUNT I  
VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT  
(FDCPA) 15 U.S.C. §1692g(B) BY DEFENDANTS PALISADES,  
MJSPC, AND MICHAEL J. SCOTT**

12. Scott reasserts the foregoing as if fully stated herein.

13. Scott denies the allegations in ¶ 13 as calling for a legal conclusion.

14. Scott denies the allegations in ¶ 14 as calling for a legal conclusion.

15. Scott denies the allegations in ¶ 15 for lack of knowledge or information sufficient to form a belief therein.

16. Scott denies the allegations in ¶ 16.

### **TRIAL BY JURY**

1. Scott admits Plaintiff seeks trial by jury but denies any and all liability, wrongdoing or damages under the law.

### **AFFIRMATIVE DEFENSES**

1. Plaintiff has not stated a claim upon which relief may be granted.

2. To the extent any violations are established, any such violations were not intentional and resulted from bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

3. Scott denies any liability; however, regardless of liability, Plaintiff has suffered no actual damages as a result of Scott's purported violations.

4. One or more claims asserted by Plaintiff are barred by the statute of limitations, laches, estoppel, waiver and/or unclean hands.

5. Assuming Plaintiff suffered any damages, he has failed to mitigate his damages or take other reasonable steps to avoid or reduce his damages.

6. Any harm suffered by Plaintiff was legally and proximately caused by persons or entities other than Scott that were beyond the control or supervision of Scott or for whom Scott was and is not responsible or liable.

7. Plaintiff has improperly filed this as a separate action from *David E. Mack v. Palisades Collection, LLC, et al.*, Cause No. 4: 11-CV-00344, as the two claims stem from the same

transaction or occurrence. The cases should be consolidated in the interests of avoiding unnecessary litigation and conserving judicial resources.

WHEREFORE, Defendant, Michael J. Scott, requests the Court dismiss this action with prejudice and grant it any other relief that the Court deems appropriate.

Respectfully Submitted,

**MICHAEL J. SCOTT, P.C**  
1120 Metrocrest Drive, Suite 100  
Dallas, Texas 75206  
Tel: (214) 234-8456  
Facsimile: (214) 234-8454

/s/ Michael J. Scott  
Michael J. Scott  
SBN 24000876  
Teri Stewart Mace  
SBN: 12759480

**ATTORNEY FOR DEFENDANT  
MICHAEL J. SCOTT**

**Certificate of Service**

This is to certify that a true and correct copy of this instrument was this day forwarded to all counsel of record through the Court's ECF system and to those identified below via the United States Postal Service and/or Certified Mail Return Receipt Requested.

David E. Mack  
7720 McCallum Blvd. #2099  
Dallas, Texas 75252

Jessica A. Hawkins, Esq.  
Sessions, Fishman, Nathan & Isreal, LLC  
900 Jackson Street, Suite 400  
Dallas, Texas 75202

Signed October 17, 2011.

/s/ Michael J. Scott  
Michael J. Scott